

S.B. CRIMINAL REVISION PETITION NO.184/2007
(Shambhu Singn & Anr. Vs. The Central Bureau of Investigation)

Date :: 17.05.2007

HON'BLE MR. JUSTICE GOPAL KRISHAN VYAS

Mr.Y.R. Sonel, for the petitioners.
Mr.Panney Singh, for C.B.I.

Heard learned counsel for the petitioners and perused the order dated 19th December, 2005 passed by learned Additional Chief Judicial Magistrate, C.B.I. Cases, Jodhpur.

It is contended by learned counsel for the petitioners that on 19th December, 2005 the Presiding Officer was on leave and the order was passed by the linked Judge and he while accepting the challan papers observed that prima facie offence is made out against the petitioners, as such, the linked Judge took cognizance which is without jurisdiction and it is prayed that the order dated 19th December, 2005 may be quashed.

Mr.Panney Singh, learned counsel for C.B.I. submits that the contention of the petitioners is totally incorrect because in the order-sheet dated 19th December, 2005 the linked Judge only accepted the challan papers and decided the application filed by the accused persons for bail. Thereafter, the linked Judge passed an order for

listing the case on 06th January, 2006. On that date, the Presiding Officer was present and after perusing the challan papers, appropriate order was passed for registering the case. Meaning thereby the cognizance was taken by the Presiding Officer himself on 06th January, 2006 when he has passed an order for registering the case.

I have perused the order dated 19th December, 2005 passed by learned Additional Chief Judicial Magistrate, C.B.I., Jodhpur as well as the order dated 06th January, 2006 passed by the Presiding Officer.

After perusing both the orders, I do not find any reason to interfere in this case, because it is obvious from both the orders that no order of taking cognizance on 19th December, 2005 was passed by the linked Judge. In fact on 06th January, 2006 the Presiding Officer himself passed an order for registering the case after taking into consideration the evidence on record. It is also required to be said that at the time of passing order of taking cognizance, the only requirement is to peruse the challan papers and to form an opinion whether prima facie case is made out upon which, case can be registered. Therefore, it is evident from order dated 06th January, 2006 passed by the Presiding Officer that on that date after scanning the challan papers, he has passed an order for registering the case.

In fact on 06th January, 2006 the cognizance was taken by the Presiding Officer.

In these circumstances, there is no force in the petition, hence dismissed.

[GOPAL KRISHAN VYAS],J.

A.K. Chouhan/-